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CITY AND COUNTY OF SAN FRANCISCO

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

CALIFORNIA RESTAURANT
ASSOCIATION,

Plaintiff,

vs.

THE CITY AND COUNTY OF SAN
FRANCISCO AND THE SAN
FRANCISCO DEPARTMENT OF
PUBLIC HEALTH,

Defendants.

Case No. C08-3247 CW

**ORDER GRANTING STIPULATION
VACATING AND RESCHEDULING
HEARING ON PLAINTIFF'S
MOTIONS FOR DECLARATORY
RELIEF AND PRELIMINARY
INJUNCTION AND EXTENDING
STAY OF ENFORCEMENT OF
ORDINANCES**

(Civil Local Rule 7-12)

Honorable Claudia Wilken

Hearing Date: September 11, 2008
Time: 2:00 p.m.
Place: Ctrm 2, 4th Floor

CALIFORNIA RESTAURANT
ASSOCIATION,

Plaintiff,

vs.

THE COUNTY OF SANTA CLARA
AND THE SANTA CLARA COUNTY
PUBLIC HEALTH DEPARTMENT,

Defendants.

Case No. C08-3685 CW
(Related with above case)

STIPULATION

WHEREAS, on August 26, 2008, the Court ordered that the hearing on Plaintiff California Restaurant Association ("CRA")'s Motions for Declaratory Relief and a Preliminary Injunction ("Motions") in each of the related actions that was scheduled for August 28, 2008 be vacated and rescheduled for September 11, 2008 at 2:00 p.m.;

WHEREAS, on August 31, 2008, the California Legislature passed Senate Bill 1420, a bill that would require menu labeling state-wide and that contains a preemption clause;

WHEREAS, Senate Bill 1420 is now pending before the Governor and the Governor has until September 30, 2008 to sign or veto the bill;

WHEREAS, if the Governor takes no action on Senate Bill 1420 by September 30, 2008, the bill will automatically become law;

WHEREAS, in light of these circumstances, Plaintiff CRA and Defendants City and County of San Francisco and County of Santa Clara ("Defendants") agree that a hearing on September 11, 2008 would be premature and an inefficient use of judicial resources, and that the hearing should be rescheduled for a date after September 30, 2008 in order to ascertain whether Senate Bill 1420 becomes law;

WHEREAS, in order to allow for a later hearing date, Defendants are willing to further postpone enforcement of their ordinances (*i.e.*, no fines or penalties will be imposed), until November 24, 2008; and

WHEREAS, in light of the holidays of Rosh Hashanah and Yom Kippur, counsel for Plaintiff CRA have scheduling issues with the Court's regularly scheduled hearing dates of October 2 and October 9;

IT IS HEREBY STIPULATED AND AGREED, by and among Plaintiff and Defendants, subject to approval of the Court, that:

1. The hearing on Plaintiff's Motions in the related actions shall take place on October 16, 2008 at 2:00 p.m.. The hearing presently scheduled for September 11, 2008 at 2:00 p.m. shall be vacated.

2. Enforcement of fines and penalties under both the San Francisco and Santa Clara ordinances shall be stayed until November 24, 2008, without prejudice as to Plaintiff's right to seek a further stay and Defendants' right to oppose any further stay.

Dated: September 3, 2008

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By: _____/s/_____
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Attorneys for Defendant
COUNTY OF SANTA CLARA

ARNOLD & PORTER LLP

By: _____/s/_____
TRENTON NORRIS
Attorneys for Plaintiff
CALIFORNIA RESTAURANT ASSOCIATION

PURSUANT TO STIPULATION, IT IS SO ORDERED:

Dated: 9/5/08



The Honorable Claudia Wilken